IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

WP(C).No. 32906 of 2006(P)

PETITIONER:

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1. ANTONY P.A.,
   SECTION OFICER (H G),
   SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
   KALADY, KERALA.

2. T.CHANDRABABU,
   SECTION OFFICER, SREE SANKARACHARYA UNIVERSITY
   OF SANSKRIT, KALADY, KERALA.

3. E.O.MANOHAR, ASSISTANT REGISTRAR,
   SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
   KALADY, KERALA.

BY ADV. SRI.SAIBY JOSE KIDANGOOR

RESPONDENTS:

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1. SREE SANKARACHARYA UNIVERSITY OF
   SANSKRIT,
   KALADY, KERALA, REP. BY ITS REGISTRAR.

2. THE VICE-CHANCELLOR,
   SREE SANKARACHARYA UNIVERSITY OF SANSKRIT,
   KALADY, KERALA.

BY ADV. SRI.B.S.KRISHNAN(SR.),SC,SANSKRIT UTY.
SRI.K.ANAND, SC, SANSKRIT UTY.
SMT.LATHA KRISHNAN,SC,SANSKRIT UTY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ALONG WITH WPC 32920/2006 ON 19/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K. DENESAN, J.

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W.P.(C)Nos.32906 & 32920 OF 2006
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Dated this the 19th December, 2006

J U D G M E N T

W.P.(C) No. 32906 of 2006

The petitioners, three in number have sought for reliefs including a writ of certiorari to quash Exts. P3, P4, P5 and P6 and for a direction to the respondents to consider and take appropriate steps on Ext. P7 in accordance with law before conducting the selection scheduled to be held on 12-12-2006 and 13-12-2006 to the post of Section Officers in pursuance of Ext. P1 notification. Ext. P2 is the judgment of the Division Bench of this Court rendered on 10-10-2006. After considering elaborately the questions posed before the Division Bench, the appeals were disposed of as follows:

> "When the specification of qualification and the guidelines formulated by the Selection Committee were justified and only the selection process alone was vitiated, it is only proper that the applicants who responded to the notification Ext. P1 as modified by Ext. P3 be considered for appropriate selection process afresh for making fresh appointments. The incumbents already appointed based on the selection

> which we have quashed can continue in service in the mean time on stop gap basis, subject to fresh selection. But the University has to finalise the selection process, at any rate, within 3 months from the date of receipt of a copy of this judgment. On finalising the select list, the incumbents ranked in the list to be so prepared shall replace the present appointees to the extent of 15 vacancies depending upon the ranking. The appointments shall be confined to 15 vacancies. In case any of the appellants fails to get selection and consequent appointment to the said fifteen vacancies in the fresh selection to be conducted by the University, they have to be sent out of service. Then a situation may arise whether they can go back to their erstwhile posts in their parent establishment. In two Original Petitions there were interim orders that their appointments were subject to result of the O.P. Therefore it is up to them to represent before the appropriate authority for their posting. Any how they will not be entitled to continue in the post of Section Officer based on the selection and appointment quashed by this judgment.
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> Appeals are disposed of as above."

2. Counsel for the petitioners submits that Special Leave Petition has been filed before the Apex Court against Ext. P2 and the same is likely to come up for consideration within a couple of weeks. The apprehension of the petitioners is that in the meantime the selection process will be continued and final decision is likely to be taken. The petitioners would

allege that it is done to defeat the rights of the petitioners to challenge the correctness of he judgment of the Division Bench rendered as per Ext. P2.

3. Standing Counsel for the University submits that after the receipt of a copy of Ext. P2 judgment, deliberations had taken place in the Syndicate meeting of the University and the scope of filing appeal against Ext. P2 judgment also came up for consideration. Based on the decision taken by the Syndicate, the permission of the Chancellor was sought for. Upon receipt of the request from the University, the Chancellor informed the University that it will be free to take action in accordance with law. Standing Counsel further submits that the University is actively considering the scope of filing appeal against Ext. P2 and steps in that direction have been initiated. According to the Standing Counsel, the Division Bench has granted a period of three months to complete the selection, and therefore, action taken by the University is within the frame work of the directions issued by the Division Bench, and if at all the respondents would propose to do anything not consistent

with the directions of the Division Bench, the same will be done only after filing appeal before the Supreme Court and obtaining necessary directions from the Apex Court.

W.P.(C) No. 32990 of 2006

4. As against the apprehension of the petitioners in W.P.(C) No. 32906 of 2006, the petitioner herein feels that the University is trying to postpone the selection process, thereby defeating his rights under Ext. P2. He wants the selection to be conducted and completed as expeditiously as possible so that the time limit fixed by the Division Bench can be ruled out. In order to press for the reliefs prayed for in this writ petition, viz., for a direction to the respondents to complete the selection process to the post of Section Officer in the University as scheduled, he has produced Ext. P2 memo dated 27-11-2006 issued by the Registrar of the University directing him to appear for an interview. It is stated that the interview did not take place on that date and without assigning any reason it has been arbitrarily adjourned. It is in this background he feels that the University may not

proceed with the selection process and there is a possibility of the selection being postponed indefinitely.

5. Having considered the rival submissions made by the counsel appearing for the petitioners in the two writ petitions mentioned above and the submissions made by the counsel for the University, I feel that these two writ petitions are liable to be dismissed as premature. Merely based on the apprehension entertained by the respective parties, it is not proper for this Court to issue the directions as prayed for. The orders impugned in these writ petitions also need not be subjected to detailed scrutiny in the light of the findings and observations made by the Division Bench in Ext. P2 judgment produced in W.P.(C) No.32906/06. It is unnecessary for this Court to declare that all those who are parties to the judgment of the Division Bench have got a duty to act in accordance with the directions contained therein unless those directions are diluted or modified or vacated by the Hon'ble Supreme Court in the Special Leave Petition mentioned above. Hence, this Court need not go into

the contentions urged by the parties, as matters now stand.

Recording the submission of the counsel for the University, these writ petitions are dismissed.

K.K. DENESAN
JUDGE

jan/